

SENATE TAXATION
DATE 8-1-24-07
EXHIBIT NO. 8
BILL NO. SB-242

Senate Bill 242

Elliott v. Montana Dept. of Revenue

¶ 30 The record establishes that it is a critical component of the current corporate tax structure of Montana that the United States Internal Revenue Service (I.R.S.) provide information contained in United States corporate tax returns to the Montana Department of Revenue. The system would simply not work without such information. 26 U.S.C. § 6103(p)(8) prohibits the I.R.S. from disclosing information about a federal tax return to any State unless that State adopts a confidentiality provision such as § 15-31-511, MCA. Thus, if this Court were to conclude that § 15-31-511 is of no effect, it follows that the I.R.S. would stop providing information to DOR, and the current Montana system for levying taxes on for-profit corporations would fail.

¶ 31 The record also establishes that Montana does not have the resources to establish a tax system which could effectively compile and process the necessary information to levy and collect taxes from the many for-profit corporations that do business in this State, without tax information gathered and provided by the I.R.S.

334 Mont. 195, *202, 146 P.3d 741, **746 (Mont.,2006)(Justice Warner's concurring opinion)

26 U.S.C. § 6103(p)(8)

(8) State law requirements.--

(A) Safeguards.--Notwithstanding any other provision of this section, no return or return information shall be disclosed after December 31, 1978, to any officer or employee of any State which requires a taxpayer to attach to, or include in, any State tax return a copy of any portion of his Federal return, or information reflected on such Federal return, unless such State adopts provisions of law which protect the confidentiality of the copy of the Federal return (or portion thereof) attached to, or the Federal return information reflected on, such State tax return.

(B) Disclosure of returns or return information in State returns.--Nothing in subparagraph (A) shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

MT Society of CPAs
January 24, 2007